

## **Yeltsin, the Press, and the New Constitution**

### ***Will Glasnost Survive Presidential Power in Russia?***

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Freedom of the press is an essential component of democratic government anywhere. One can hardly imagine a democratic Russia without an independent press or free elections. To restrict freedom of the press and broadcast media in a consistent and significant manner is to begin the undoing of popular rule.

Russia today enjoys greater freedom of expression and of the press than ever before. Yet an anti-media backlash has been building, accelerated by the political crisis of 4 October 1993 which pitted President Boris Yeltsin against armed, rebel legislators in the Russian Parliament. Politicians and ordinary people as well are offended by what they see as media excesses: a general lack of ethical standards, defamation, hate-mongering, anti-Semitism, pornography, unauthorized disclosure of classified information, inaccurate, tendentious, and sensational reporting. There is a popular mood for putting some restrictions on the press. Furthermore, the Yeltsin government has been anxious to impose controls on the television which reaches well over 90 percent of the Russian population. He who controls television, after all, exercises influence on the popular mind.

Government officials often deplore the activities of the media. Thomas Jefferson's lament about the wayward press during his presidency seems uncannily descriptive of the Russian situation today. "I deplore with you," Jefferson wrote to his friend Walter Jones in 1814, "the putrid state into which our newspapers have passed, and the malignity, the vulgarity, and the mendacious spirit of those who write for them."<sup>1</sup>

Following Yeltsin's use of force, Westerners rightly ask: How well will Russia guarantee the independence of media which is so vital to democracy? Will the Russian leadership insist on some restrictions on the media in the Constitution, in the law, or simply through time-honored practice? What are the chances that Russia will adopt a relatively liberal stance? Could Russia accept some, or all, of the elements of America's First Amendment?

Friends of Russia have pumped into Moscow plenty of information about America's experience with a free press. The American Bar Association, for

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example, has been extending legal and constitutional assistance to Russia and east-central Europe through its Central and East European Law Initiative. The Kennedy School of Government at Harvard University is running a Program for Strengthening Democratic Institutions, including those in Russia. The Gannett Freedom Forum, by ironic coincidence, held a session on press freedoms in Moscow on the very day the conspirators of August tried to overthrow Mikhail Gorbachev in 1991. New York University established in early 1993, the Russian-American Press and Information Center in Moscow to encourage fact-based reporting. The Washington-based International Media Fund, supported in part by the U.S. Congress, is making a survey of the needs of the Russian independent press.

But can American experience really be exported to Russia? This author believes the answer is, at least, partly positive. Despite Russia's tendency for self-centered Slavophilia, the nation is not immune to world trends. As far back as 1825, the Decembrist revolutionaries, who sought to overthrow Tsar Nicholas I, were moved by the American and French revolutions. They studied foreign governments and adopted some provisions from the American federal and state constitutions for their projected, but still-born democratic state.<sup>2</sup>

To answer the question about the exportability of experience, we need to identify several characteristics of U.S. practice. The first element is the text of the First Amendment which enumerates a number of rights and contains the cryptic reference to press freedom: "Congress shall make no law abridging . . . freedom of the press . . . ." This cursory line, aimed technically only at Congress, cries out for clarification. The clause could easily be overlooked if it were not regularly challenged and interpreted by a high court. Judicial review, then, is the second element of a First Amendment approach.

Finally, a third element: the culture in which the Amendment has flourished in America. Here this author would point out several items: (1) a long history of respect for law going back to the colonial days; (2) a general attitude of openness and a consensus against prior restraint; (3) a vigorous journalistic community whose irrepressible instincts to broaden the boundaries of public discourse go back to America's first newspaper in 1690; and (4) a political tradition which holds open deliberation and pragmatic compromise in a positive light.

Right away we see how different the Russian context is from the American. In Russia, respect for law has been minimal. Dictatorship has been frequent. Russian society has been closed, not open. Editors, for the most part, have been timid, co-opted by terror and ideology. The notion of compromise, or *kompromiss*,<sup>3</sup> carries with it, in the Russian and Soviet lexicons, a negative overtone. Compromise means weakness; strength means insisting on your point of view. Russians admire "a strong will and a loud voice" and that, in today's Russia, means government management of broadcasting, and influence over newspapers. Not exactly the American idea of press freedom.

Given this authoritarian history, press resistance to the attempted coup of 1991 was nothing short of remarkable and signalled a new assertiveness which Americans will admire. A group of conspirators, nominally headed by Soviet Vice President Gennady Yanayev, sought to overthrow Mikhail Gorbachev while he was on vacation in the Crimea. Their Decree No. 2 banned the national newspapers which they deemed would be critical of their seizure. They tried to impose control over television and radio. But they failed. In 1991, in contrast to 1964 when Nikita Khrushchev was overthrown, the media refused to fall obediently into line.<sup>4</sup>

A Russian student of mine at Northeastern University in Boston gave me some insight into how the conspirators misread the mood. "I was in Moscow at the time," this student recalled after the events. "At first, I was shocked at what had happened. Then I was scared, went out and got drunk. I withdrew from the scene. Finally, I decided I could not give up the freedom of expression which we had enjoyed before the coup. I decided I had to go to the barricades. I had to defy my parents. I had to go defend that liberty."

That kind of reaction spread like wild fire among Russian journalists, spurred on by the growing conviction that the conspirators would hesitate to use force. It did not help the plotters that the Freedom Forum was opening an assembly in Moscow on press freedom on August 19. The plotters' plan was complicated, too, by CNN which was broadcasting live from the streets of Moscow. Russian stringers for Radio Liberty took enormous risks to get the news out, too. Critical newspapers like *Komsomolskaya Pravda* and ten other broadsheets were prevented from publishing, but their reporters still came to work, collected the news, posted it in their hallways for all to read, duplicated it as best they could, and spread it around the streets, thoroughfares, and public transport. Eleven independent editors banded together to put out an anti-coup newspaper called *Obshchaya Gazeta* (The Common Newspaper).<sup>5</sup> The reaction to the conspirators in Moscow and St. Petersburg was the first clear evidence that Russian journalists are developing the same passion for free discussion that moves America's most influential editors.

That passion was confirmed again in the October 1993 crisis. When Yeltsin tried to impose censorship under the terms of Emergency Rule, there was an immediate reaction. Editors of Communist and nationalist newspapers which were banned were quick to cry foul. Vladimir Chikin of the nationalist *Sovietskaya Rossiya* declared that his newspaper had never fomented trouble and should not be shut down. Viktor Linnik, who has become editor of *Pravda* since the October events, declared that no elections could be free and fair if Communist views were not allowed to be expressed. Editors of liberal newspapers, which were merely censored not banned, fought with the censors. Vitaly Tretyakov, editor of *Nezavisimaya Gazeta*, insisted on leaving blank spaces in his newspaper. He told this author that he would have created nonsense

articles for future holes to show his readers that the broadsheet was being repressed. The newspaper *Segodnya* succeeded in publishing the word “censored” across some of its blank spots. Yeltsin lifted censorship after two days under the glare of negative publicity and, possibly, American pressure.

Even without the upheavals of 1991 and 1993, the undermining of Soviet political censorship was probably inevitable in today's world of global communications. For years, the Kremlin leadership had been resisting, with less and less success, internal and external pressures to loosen restraints on publication. Following Stalin's death in 1953, dissident voices began to appear. Alexander Solzhenitsyn called openly for an end to censorship in 1968 before being expelled in 1973. Andrei Sakharov bucked the Kremlin line to protest Soviet nuclear pollution and to praise Western democratic values until he was banished in 1981 to internal exile.

Meanwhile, Voice of America and a dozen other foreign radio stations pounded the Soviet Union with alternative information, constantly challenging officially approved news. Foreign Minister Andrei Gromyko's

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proposal to the United Nations to draw up a treaty banning television broadcasting into neighboring countries went nowhere. The Soviet-backed effort to create a new world information order foundered. As it turned out, the fax, the modem, the satellite telephone, the xerox, proved mightier than the sword.

When Gorbachev came to power in 1985, he moved step by step to relax press controls. He met frequently with members of the intellectual community and railed against bureaucrats who sought to put a positive gloss on things with lies and deception. By 1986, Gorbachev was propounding glasnost and taking steps to strip the censorship agency Glavlit of its functions. Three years later, the censors, whose existence was now openly acknowledged, began asserting that they were not involved in political control, only in preventing military secrets from slipping into print.<sup>6</sup>

Today no formal censorship exists but pressure is mounting on editors, liberals as well as conservatives alike, to use a healthy dose of self-restraint, Soviet-style. Following the October crisis, the Kremlin managed to cancel the television programs of the liberal interviewer Alexander Lyubimov (“Red Square”) in Moscow and the anti-Yeltsinite Alexander Nevzorov (“600 Seconds”) in St. Petersburg. Reports circulated in Moscow that the Kremlin would like to see Vitaly Tretyakov, the liberal editor of *Nezavisimaya Gazeta*, resign. On 14 October 1993, the Ministry of Press and Information added another dozen nationalist newspapers to the banned list and threatened lawsuits for violations of the Law of the Press. Presidential spokesman Vyacheslav Kostikov spoke openly of the need for “self-restraint” on the part of the media.

These were clear signals to the media to be supportive of Yeltsin in the run-up to the December 12 voting for a new parliament and the simultaneous referendum on the new Constitution. Beyond the exigencies of the moment, however, there are other levers which can be used creatively against the media over the long term: The criminal code prohibits, for example, calls to overthrow the government by force (Art. 70), or to commit a crime against the state (Art. 70.1) or to engage in a conspiracy to commit a “particularly serious” crime against the state (Art. 72). Banned, too, are insults against officials, particularly law enforcement officers (Art. 192). Mutilation of the flag and other state symbols is prohibited, and there is no provision for such acts to be considered as political protests (Art. 190.2). The code bans the production and distribution of pornography without any consideration of free expression issues (Art. 228).<sup>7</sup> Access to secret police files, a highly controversial subject for a former police state, remains frozen. No Freedom of Information Act has been passed although the idea has been floated. And, of course, the Law on Emergency rule, which Yeltsin signed in May 1991, provides for the introduction of outright censorship in emergency situations.

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Despite these hindrances, the views expressed by the Russian media today are more varied and more independent than ever before in the nation's history. *Izvestiya*, which successfully resisted an attempt by Ruslan Khasbulatov's Supreme Soviet to turn it into a parliamentary mouthpiece, is beginning to take on

the aura of a Russian *New York Times*: solid, responsible, strongly democratic in its leanings; enthusiastic defender of the free press. At the other end of the spectrum, the newspaper *Den* could be relied upon to denounce the Yeltsin administration as “the American occupation government” until it was banned. The enthusiasm for expressing opinions through newspapers seems to grow from day to day. The Russian Ministry of Information reports that it issues over 60 registrations for new media outlets every week.<sup>8</sup> More than 300 independent radio and TV stations have begun operations and are struggling to survive. When this author called the Ministry in Moscow, he was told by one official, “We want to destroy the single voice, and insure a multiplicity of views.”<sup>9</sup>

However, current conditions could force Russian media into a new harness after all. The Russian Law on the Press (direct descendent of the USSR Law on the Press), which came into effect in early 1992, is both guardian of free discussion and a red warning flag. This act, the product of fierce horse-trading between liberals and conservatives, contains one major achievement—a ban on pre-publication censorship:<sup>10</sup> “Censorship of mass information . . . is not

allowed.” (Art. 3). But conservative politicians managed to load down this thirty-page document with ample “take-aways”<sup>11</sup>—reasons for limiting the press—which could undermine the prohibition against prior restraint.

Article 4 of the law, for example, carries the threatening and vague title, “Prohibition of Abuse of Freedom of Mass Information.” This article bans: (1) disclosure of classified information or state secrets; (2) incitement to overthrow the government (the same seditious libel concerns which troubled the great English commentator Sir William Blackstone in the 18th century); (3) forcible change of the constitutional system; (4) appeals to ethnic hatred or class, social, and religious intolerance; (5) war propaganda; or (6) efforts at subliminal persuasion.

The press law also provides other potential restraints such as official registration for newspapers (Art. 8) and licensing for broadcasting stations (Art. 31). The measure limits erotic subjects without offering a clear definition of eroticism, pornography, or obscenity (Art. 37); it restricts surreptitious means of reporting (Art. 50), and prohibits reporters and editors from abusing journalistic rights, specifically: denigrating individuals because of sex, age, ethnic background, language, place of work, or political beliefs (Art. 51). Particularly sinister, the law sets out court procedures for arresting offenders (Chapter VII). This press law is a double-edged sword—supporters praise it for forbidding censorship; critics denounce it as an arsenal for media control.

The critics have a point. Basing itself on law and precedent, the Ministry of Information has pursued media outlets which it considers to be violating Article 4. In the first half of 1993, the Ministry issued 77 warnings to newspaper editors.<sup>12</sup> Over the last year, the Ministry has brought suits against a number of newspapers. *Moskovsky Komsomolets* and *Chastnaya Zhizn* were compelled to court for publishing advertisements offering sexual services. St. Petersburg authorities arrested, then released, the editor of *Narodnoye Delo* for publishing anti-Semitic articles. Moscow authorities prosecuted *Den* for urging the overthrow of President Yeltsin's government before the October crisis but, in the end, lost that trial to the delight of chief editor Alexander Prokhanov.<sup>13</sup>

Recent reports relate that the Ministry of Information is considering cutting off subsidies to newspapers which violate Article 4—a way of undermining newspapers critical of the Yeltsin administration. The existence of subsidies is instructive. Subsidies are a reflection of today's harsh economic realities which threaten print and broadcast media generally. Since February 1992, national newspapers have seen their multi-million circulations drop precipitously because of soaring newsprint and distribution costs. *Pravda*, which once enjoyed a circulation over 10 million, saw its readership drop from 1.3 million in 1992 to 500,000 in 1993; *Izvestiya* fell from 3.8 million in 1992 to 1 million in 1993; *Komsomolskaya Pravda* went from 13 million to 1.9 million during the same period.<sup>14</sup>

Editors appealed to the government for help, and President Yeltsin last year approved subsidies to make good the gap in their finances. The Ministry of Information, prodded by Khasbulatov's Parliament, was even willing to offer hand-outs to newspapers critical of the government, like *Sovietskaya Rossiya*. The situation with broadcasting is hardly less dire because production and communication costs are out of control. Central television has been unable to pay bills sent by the Ministry of Communications, and a 40 percent cut in broadcasting has been suggested.<sup>15</sup> In Siberia, whole areas have been deprived of broadcasts because of financial difficulties.

Freedom of the press in Russia today is threatened, too, by the obvious political battle over television. In November 1992, Yeltsin removed the glasnost-era editor of *Moscow News* Yegor Yakovlev as head of central television (Channel 1) and named Vyacheslav Bragin in his place. Not long afterwards, Igor Malashenko, director of TV programming, resigned after complaining of political pressure. Under prodding from Parliament in 1992, Yeltsin dismissed his loyal friend Mikhail Poltoranin as minister of information but then named him to lead the newly created Federal Information Agency or FITs. FITs has become a major instrument for insuring that TV, and to a lesser extent, the printed media follow the presidential line, especially after the October crisis.

The heavy Yeltsin hand on television aroused the anger of conservative politicians in Parliament. In March 1993, the deputies, deploring the pro-presidential cast of television news broadcasts, passed a resolution calling for federal and local oversight councils to restore "freedom of the press" to broadcasting. Pro-Yeltsin representatives immediately appealed to the Constitutional Court to review the legality of this resolution. And on 27 May 1993, the Court found in favor of the Parliament and against Yeltsin.<sup>16</sup> On 22 July 1993, the Parliament passed a law on Radio and Television Broadcasting, authorizing oversight councils which could interfere in program content. The legislation was bitterly denounced by Minister of Information Mikhail Fedotov as an impermissible assault on media freedom, and he resigned shortly afterwards.

### **The Yeltsin Constitution and Press Freedoms**

We now come to a critical juncture: the referendum on the Yeltsin Constitution 12 December 1993. How strongly does this Constitution defend the freedom of media? How strongly would any postcommunist constitution defend freedom of the press? How have the constitutional views on this subject, so critical for the survival of democracy, evolved since the abortive putsch of 1991?

The family tree of the sections relating to media freedoms is known. The "grandparents" are two: the draft constitution developed by the dissolved Parliament between 1992-1993 and the draft developed by Yeltsin and his aides during the same period. These two versions were merged into a third draft during

the Constitutional Assembly of June 1993. The Yeltsin Constitution presented to the voters on 12 December 1993 is the Constitutional Assembly draft of June 1993 amended to give the president greater powers in relation to the Parliament and Russia's 88 regions. The articles relating to the media freedoms in the Yeltsin Constitution have also been edited, although not drastically. Still they contain the two major tendencies which emerged in all previous constitutional drafts: (1) a bold statement outlawing censorship, and (2) a "take-away" or qualifier permitting suspension or stoppage of media freedoms in loosely specified situations. The following discussion traces the evolution of these two tendencies.

The parliamentary draft of 1992-1993 used the straightforward approach of combining the anti-censorship clause with the "take-away" in a single article, Article 73. The anti-censorship clause was placed in paragraph No.1 and the "take-away" in No. 4:<sup>17</sup>

1. Freedom of the mass media shall be guaranteed. Censorship, monopolization of and abuse of the freedom of the media shall not be allowed.
2. The founders and owners of mass media may be citizens, public associations, institutions, enterprises, local self-government bodies, and state bodies.
3. Public associations shall have the right to use state, local and private radio and television on terms and under procedures established by federal law.
4. Forcible suspension or termination of the activities of a mass medium shall be allowed on the basis of law by court decision.

Article 15 of the parliamentary draft prohibited the use of any rights or privileges forcibly to overthrow, or seek to overthrow, Russia's constitutional system. Similarly, Article 66 banned any organization from attempting to create a parallel state structure which could rival legitimate authority. The possibility for the authorities to apply such prohibitions against dissident critics of the government are clear, and the implications for freedom of expression and the media are rather negative to say the least.

The presidential draft split off the "take-aways" from the anti-censorship clause and dispersed them in separate articles, apparently so the qualifiers would be less visible to the casual eye. The anti-censorship article, Article 15:<sup>18</sup>

Everyone has the right to free speech, free propagation of one's thoughts and ideas, and also the right to search, receive and freely communicate and disseminate information.

The freedom of the press is guaranteed. Censorship is prohibited.

The "take-aways" landed in Article 24:

Individual restrictions on human rights and freedoms may be introduced by federal constitutional law in cases when this is essential for the protection of the rights and lawful interests of other persons, for the protection of the state system, for ensuring security and public order, and for the protection of public health and morality.

Nothing may provide a pretext for reneging on the provisions of Articles 8, 9, 10, 11, 12, 13, and 14 of the Constitution.

Note the cunning use of omission in the enumeration of articles absolutely immune from restriction. Article 15, guaranteeing freedom of the press, is conspicuously absent from the protected articles.

Article 25 adds the following qualification:

Individual restrictions of rights and freedoms may be introduced under a state of emergency only when the act announcing the state of emergency prescribes such restrictions and the bounds and duration of their effect.

A state of emergency throughout the territory of the Russian Federation or in its individual areas may be introduced in the circumstances, and in conformity with the procedures defined by the federal constitutional law.

We now come to the merged parliamentary/presidential draft and note again the two main tendencies banning censorship but providing “take-aways.” Article 28 contains the prohibition on censorship, adopted from the presidential draft and edited slightly so that “press freedom” is replaced by the expression “freedom of the means of mass information.”<sup>19</sup> “Freedom of means of mass information is guaranteed. Censorship is prohibited.”

The “take-aways” survive in Articles 55 and 56. Article 56 is especially worth noting because it uses that skillful twist of omission, noted in Article 24 of the presidential draft, to safeguard important liberties while allowing restrictions on the media:

In emergency situations, to protect the security of citizens and to defend the constitutional system, in accordance with the federal constitutional law, specific restrictions on rights and liberties may be introduced with indication of extent and duration.

Emergency rule may be introduced on all of the territory of the Russian Federation and its individual jurisdictions in conjunction with circumstances and procedures established by the federal constitutional law.

Not subject to restriction of rights and liberties are Articles 20, 21, 23, 24, 27, 34, 40, 46, 47, 48, 49, 50, 51, 52, 53, and 54 of the constitution of the

Russian Federation.

Article 28 on media freedom with its brave declaration against censorship is conspicuously absent from the unconditionally protected rights of the sixteen articles cited.

The same pattern appears in the Yeltsin constitution of 12 December 1993. It is now Article 29 which contains the prohibition against censorship. The prohibition has been slightly edited from the preceding draft but not drastically: "Freedom of mass media is guaranteed. Censorship is forbidden."

The "take-aways" appear in Article 55 and 56 of the Yeltsin Constitution. Article 55 states, for example:

The rights and freedoms of man and citizen may be restricted by federal law only to the extent that it is necessary to protect the foundation of the constitutional system, customs, health, legal interests of others, and the guarantee of defense of the nation and the security of the state.

Article 56, like article 56 of the previous draft, continues the notion that some basic human rights may be temporarily restricted. Article 56 of the Yeltsin Constitution states (in full):

1. In emergency situations, for the protection of the security of citizens and the defense of the constitutional system, certain restrictions of rights and freedoms may be imposed with indication of duration and scope in accordance with federal constitutional law.
2. Emergency law may be introduced over the whole territory of Russia and its individual regions under appropriate circumstances and in accordance with federal constitutional law.
3. Rights and freedoms which may not be restricted are described in articles 20, 21, 23 (part 1), 24, 28, 34, (part 1), 40 (part 1), 46-54 of the Constitution of the Russian Federation.

Once again, Article 29 forbidding censorship is conspicuously absent from the listing of the sixteen articles immune from restriction. This list is made to look shorter than the equivalent article in the previous draft, by employing the device of citing articles 46-54 rather than enumerating each of them individually.

We can see from this progression of constitutional drafts the difference between Russian and American approaches to press freedoms. Americans insist on free discussion despite the hazards of chaos and confusion. The Russians, wary of chaos and fond of byzantine formulations, insist on emergency provisions limiting the media. Despite this difference, the Russians have borrowed one important element from American jurisprudence which applies to

the First Amendment tradition—judicial review. A Russian Constitutional Court was added to the Brezhnev-era Constitution of 1978. The Court pronounced frequently on the constitutionality of laws, not infrequently to the disgust of President Yeltsin and the Parliament. But all sides agree on the theoretical value of this function and the high court's role has been preserved in the Yeltsin Constitution and its predecessor drafts.

The balance between press freedoms and press restrictions seems to have been a relatively uncontroversial issue in the Yeltsin Constitution judging by press reports. The major battle lines are drawn over the division of power between the central government and the Russian Federation's component jurisdictions. One thing seems certain: a political consensus exists in Russia for a ban on prepublication censorship. But this ban will be phrased in such a way to leave room for direct and indirect manipulation of media by government, including the possibility of shutting down offensive media outlets by court review and in accordance with the Law on the Press. That is the Russian way, influenced only slightly by the American experience.

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Different democracies will find different ways to construct their institutions; nations will provide more or less freedom for the press depending on their national histories and political mentalities. While some critics protest that Russia is slowly whittling away press freedoms, it is indisputable that Russia is much freer today than it ever was before.<sup>20</sup> Several factors are likely to undergird that new openness. This author believes that Russia will survive with much greater freedom of expression and freedom of media than ever before.

The Yeltsin Constitution may prove to be only a transitory document which will be replaced by yet another Basic Law. But certain realities remain: Russia lives in a world of rapid communications and exchange of information. Russia today needs openness with which to reconstruct itself economically. The West will help Russia but will insist on openness and access. The Russian leadership will propound openness but will insist on emergency measures against chaos, including some kind of emergency regulation of the press. And the Russian people, I believe, will act as a check and balance on new efforts at information dictatorship because of their memory of Stalin's excesses.<sup>21</sup>

## Notes

<sup>1</sup>Quoted from James E. Pollard, *The President and the Press* (New York: The Macmillan Co., 1947), p. 90.

<sup>2</sup>N. Druzhinin, *Dekabrist Nikita Muravev* (Moscow: All-Union Society of Political Prisoners and Exiles Publishing House, 1933), p. 149, et seq.

<sup>3</sup>Vladimir Dal, the great 19th century Russian linguist, associates *kompromiss* with the

Russian verb *komprometirovat* which he defines as: to put in a difficult situation, to betray, to shame. Vladimir Dal, *Tolkovii Slovars zhivogo Velikorusskogo Yazyka*, (Moscow: State Publishing House of Foreign and National Dictionaries, 1956), Vol. 2, p. 148.

<sup>4</sup>Nicholas Daniloff, "Will Russia's Free Press Survive?" *Fletcher Forum of World Affairs*, Vol. 17, No. 1 (Winter, 1993) p. 39.

<sup>5</sup>Nicholas Daniloff, "The Role of the Russian Media," *Seven Days that Shook the World*, (Atlanta: Turner Publications, 1991), p. 233 et seq.

<sup>6</sup>Bill Keller, "The Life of a Soviet Censor: Anything goes? (not Quite)," *The New York Times*, 18 July 1989, p. A1.

<sup>7</sup>Ugolovnii Kodeks RSFSR (Rossii), Moscow: Vsesoyuznaya yuridicheskaya firma "Kontrakt," 1992.

<sup>8</sup>Georgy Ivanov-Smolensky, in *Izvestiya*, "Neither Den Nor Other Publications Will Be Allowed to Break Law on Mass Media," 18 May 1993, p. 2.

<sup>9</sup>Interview by Nicholas Daniloff with officials of the Ministry of Information, Moscow, 5 August 1992.

<sup>10</sup>Joel M. Ostrow, *Legal Reform in the Soviet Union and the Law on the Press: Sources, Process, Prospects* (unpublished master of sciences thesis), Cambridge, MA: Massachusetts Institute of Technology, 1987.

<sup>11</sup>I am indebted to Dana Bullen, Executive Director of The World Press Freedom Committee, for the expression "take-away." Dana Bullen letter to Nicholas Daniloff, 14 June 1993. Another term used is Gregory Stanton's "claw-back clause" in "Democratization in Ukraine: Constitutions and the Rule of Law," *Demokratizatsiya* Vol. 1 No. 1 (Fall 1992), pp. 55-72.

<sup>12</sup>See note 7.

<sup>13</sup>*Moskovsky Komsomolets*, No. 25, 20 June 1993, p. 2.

<sup>14</sup>*Moscow News*, 24 January 1993, pp. B12.5.

<sup>15</sup>Kirill Ignatyev, first deputy chairman of Ostankino television, on news program "Novosti," 14 July 1993; on Moscow Radio Network, 28 July 1993.

<sup>16</sup>Report of ITAR-TASS World Service on the court's decision, 27 May 1993, 1130 GMT.

<sup>17</sup>Contained in *Proyekt Konstitutsii Rossiskoi Federatsii* (Sbornik materialov), Moscow: Redaktsionno-izdatelskii otdel Verkhovnogo Sovieta, 1992.

<sup>18</sup>*Izvestiya*, June 1993.

<sup>19</sup>*Izvestiya*, 16 July 1993.

<sup>20</sup>Discussion "Is Russia's Press Free?" between Vladimir Nadein, Washington Correspondent of *Izvestiya*, former Russian dissident Valery Chalidze, and Nicholas Daniloff, Voice of America broadcast to Russia, 16 June 1993. See also: Nikolai Andreev, "Limits on Press Freedom?" *Moscow Times*, 5 May 1993.

<sup>21</sup>Daniloff, "Will Russia's Free Press Survive?" p. 35.